

86 2017

Supreme Court, U.S.

FILED

JUN 3 1987

JOSEPH F. SPANGL, JR.
CLERK

NO.

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM 1986

CLARENCE H. HOLDING ,

PETITIONER ,

V.

SOVRAN BANK NA , C. COLEMAN MCGEHEE , DONALD
E. KOONCE , ESTATE OF LILLIAN J. MUSE , MUTUA
L FINANCE CORP., MCGUIRE WOODS BATTLE, THOMAS
S. WORD , JR., SCOTT S CAIRNS , BROWDER MORRIS
RUSSEL BUTCHER , JOHN B. BROWDER, PAUL G, SAU
NDERS II, RESPONDANTS.

FOR WRIT OF CERTIORARI TO U.S.
SUPREME COURT FROM VIRGINIA SUPREME
COURT

Clarence H. Holding

CLARENCE H. HOLDING
1901 WOODBINE ROAD
RICHMOND , VIRGINIA
23225
(804) 232 7418

COUNSEL FOR PETITIONER

COUNSEL OF RECORD

1987

EDITOR'S NOTE

THE FOLLOWING PAGES WERE POOR HARD COPY
AT THE TIME OF FILMING. IF AND WHEN A
BETTER COPY CAN BE OBTAINED, A NEW FICHE
WILL BE ISSUED.

QUESTIONS PRESENTED

1. -

DOES DEPRIVING A PERSON OF PROPERTY WITHOUT DUE PROCESS VIOLATE THE 14th AMENDMENT TO THE U.S. CONSTITUTION THEREBY VIOLATING HIS CONSTITUTIONAL RIGHTS GUARANTEED BY SAME- DUE PROCESS ALSO THE FIFTH AMENDMENT - DUE PROCESS GUARANTEED THEREBY ?

2. WHERE THE VALUE OF THE CONTROVERSY EXCEEDS TWENTY DOLLARS, DOES DENYING A PERSON A RIGHT OF TRIAL BY JURY VIOLATE HIS CONSTITUTIONAL RIGHTS GUARANTEED BY THE SEVENTH AMENDMENT TO THE U.S. CONSTITUTION ?

3. DOES DENIAL OF A TRIAL BY AN IMPARTIAL JURY AND TO HAVE COMPULSORY PROCESS FOR OBTAINING WITNESSES IN HIS FAVOR VIOLATE THE PERSON'S CONSTITUTIONAL RIGHTS GUARANTEED BY THE 6th AMENDMENT TO THE U.S. CONSTITUTION.

PARTIES TO THE PROCEEDINGS

CLARENCE H. HOLDING , PETITIONER IN THIS COURT , PETITIONER IN VA. SUPREME COURT, PLAINTIFF IN THE TRIAL COURT .

SOVRAN BANK NA , C. COLEMAN McGEHEE, DONALD E. KOONCE, ESTATE OF LILLIAN J. MUSE, MUTUAL FINANCE CORP., MCGUIRE WOODS BATTLE , THOMAS S. WORD, JR. , SCOTT S CAIRNS , BROWDER RUSSELL MORRIS BUTCHER, PAUL G. SAUNDERS , JR. RESPONDANT IN THIS CT. , RESPONDANT IN VA. SUPREME COURT , DEFENDANT IN TRIAL COURT .

REFERENCE TO OPINIONS DELIVERED BELOW .

TRIAL COURT DISMISSED WITHOUT TRIAL 9/3/8

SUPREME COURT OF VA. PETITION DENIED DISMISS 2/3/87 . REHEARING DENIED 3/6/87



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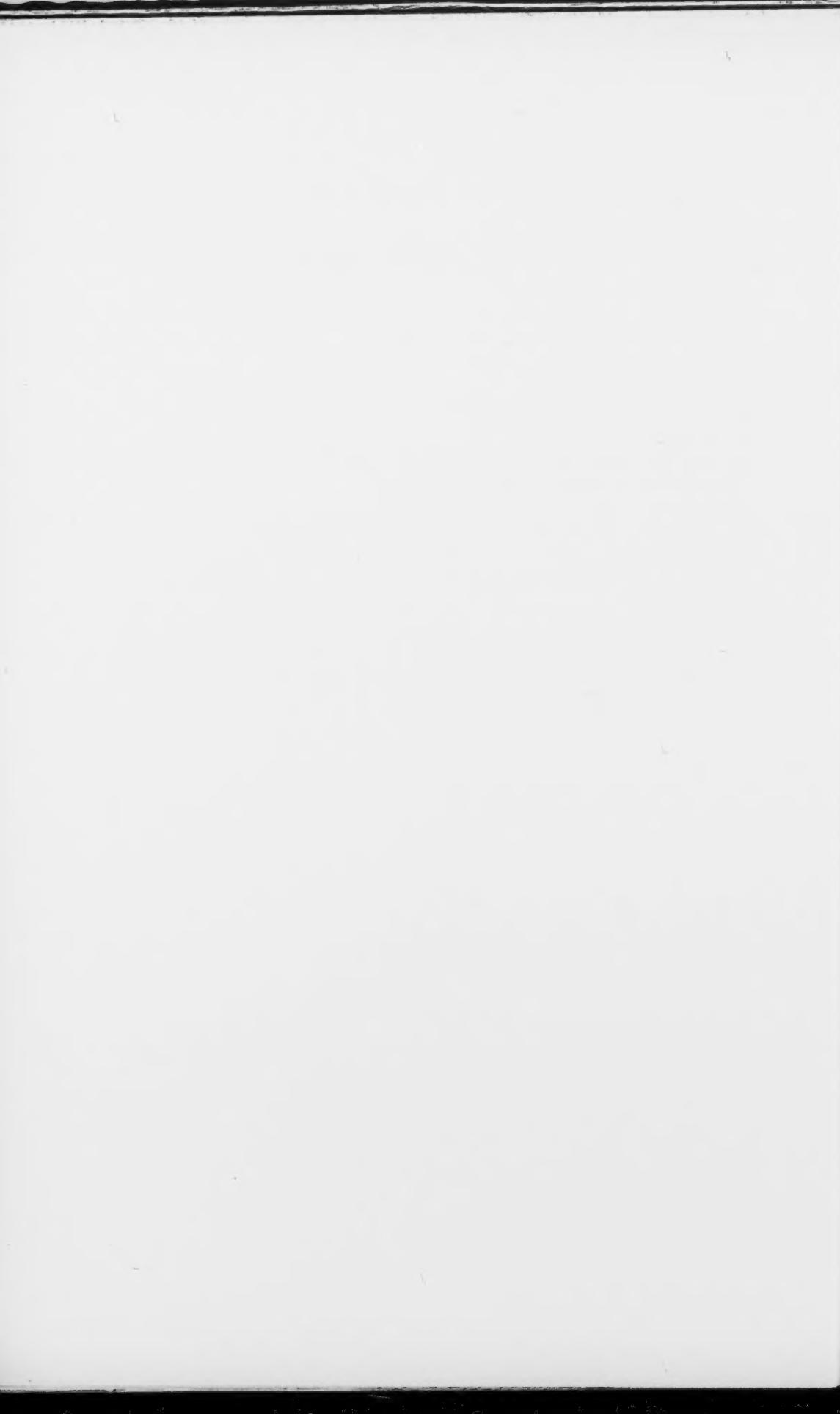


TABLE OF AUTHORITIES

UNITED STATES CONSTITUTION

DUE PROCESS , 14th AMENDMENT U.S. CONSTITUTION - NOR SHALL ANY STATE DEPRIVE ANY PERSON OF LIFE , LIBERTY , OR PROPERTY WITHOUT DUE PROCESS OF LAW.FIFTH AMENDMENT DUE PROCESS.

SEVENTH AMENDMENT- WHERE THE VALUE OF THE CONTROVERSY EXCEEDS TWENTY DOLLARS PERSON HAS RIGHT OF TRIAL BY JURY .

SIXTH AMENDMENT RIGHT OF A TRIAL BY AN IMPARTIAL JURY AND TO HAVE COMPULSARY PROCESS FOR OBTAINING WITNESSES IN HIS BEHALF AND FAVOR .

CONSTITUTIONAL PROVISIONS

14th AMENDMENT DUE PROCESS

5th AMENDMENT DUE PROCESS

7th AMENDMENT \$20 OVER RIGHT OF TRIAL BY JURY

6th AMENDMENT RIGHT OF TRIAL BY IMPARTIAL JURY

JURISDICTION OF THIS COURT

GROUNDINGS ON WHICH THE JURISDICTION OF THIS COURT IS: RULE 17.1(b), (c) WHEN A STATE COURT OR FEDERAL COURT OF APPEALS HAS DECIDED AN IMPORTANT QUESTION OF LAW WHICH HAS NOT BEEN , BUT SHOULD BE BY THIS COURT, OR HAS DECIDED A FEDERAL QUESTION IN A WAY IN CONFLICT WITH THE APPLICABLE DECISIONS OF THIS COURT.

THESE ARE VERY IMPORTANT QUESTIONS INDEED AND SHOULD BE DECIDED BY THIS COURT .



NO .

IN THE

SUPREME COURT OF THE UNITED STATES

CLARENCE H. HOLDING , PETITIONER,

V.

SOVRAN BANK NA, C. COLEMAN MCGHEE, DONALD E.
KOONCE , ESTATE OF LILLIAN J. MUSE , MUTUAL
FINANCE CORP, MCGUIRE WOODS BATTLE, THOMAS
S. WORD, JR. , SCOTT S. CAIRNS , BROWDER, RUS
SELL MORRIS BUTCHER , JOHN B. BROWDER, PAUL
G. SAUNDERS, II, DEFENDANTS.

BRIEF FOR WRIT OF CERTIORARI

TO THE SUPREME COURT OF U.S.

A PRELIMINARY STATEMENT

YOUR PETITIONER , CLARENCE H. HOLDING, HAS
BEEN AGRIEVED , DAMAGED, IRREPARABLY PERMANE
NTLY INJURED, MENTAL SUFFERINGS, AND RENDER
ED PERMANENTLY DISABLE BY ACTS OF THE DEFEN
ANTS ILLEGALLY AND WRONGLY SELLING THE PET
ITIONER, S , CLARENCE H. HOLDING HOME AND 45
ACRES IN WESTMORELAND COUNTY . JUDGE FOSTER
OF WESTMORELAND CIRCUIT COURT VIOLATED THE
CONSTITUTIONAL RIGHTS OF THE PETITIONER BY
WRONGLY RUBBER STAMPING AN ORDER MANUFACTURED
BY THE DEFENDANTS COUNSEL DISMISSING THE SUIT



FOR DAMAGES OF THE PETITIONER WITHOUT A TRIAL AND TO PRESENT HIS CASE OF GRIEVANCES AND INJURIES AND HAVE WITNESSES OF HIS OWN CHOOSING IN HIS DEFENSE AND TO PROSCUTE HIS CAUSE IN OPEN COURT WITH A JURY . THESE GRIEVANCES AS SET FORTH HAVE VIOLATED THE DUE PROCESS CONSTITUTIONAL RIGHTS GUARANTEED BY THE U.S. CONSTITUTION 14th AMENDMENT , 5th AMENDMENT , 7th AMENDMENT , 6TH AMENDMENT THERETO . THE DECISIONS OF THE CIRCUIT COURT, SUPREME COURT AND REHEARING SHOULD BE REVERSED AND FIND FOR THE PETITIONER BECAUSE OF GRIEVANCES , DAMAGES , IRREPARABLE INJURIES RENDERED BY THE DEFENDANTS UPON THE PETITIONER WHICH WERE INHUMANE, UTTER DISREGARD FOR THE RIGHTS, STEALING ANOTHER PERSONS PROPERTY AND INFLECTING IRREPARABLE INJURIES UNCONSCIONABLE ACTS AND BRAZING ABOUT THEIR ILLEGAL ACTS . RUN RUFF SHOD OVER OTHER PEOPLE BY THE BANK, DONALD E. KOONCE , MCGUIRE WOODS BATTLE AND ALL RESPONDANTS.

STATEMENT OF CASE

CLARENCE H. HOLDING PAID OFF HIS DEED OF TRUST AND NOTE FROM MUTUAL FINANCE CORP., TO LILLIAN



R. MUSE , TRUSTEE AND 100 % OWNER OF MUTUAL
FINANCE CORP. ON JULY 2, 1980 SEE EXHIBIT I
CHECK FOR \$26,520.00. LABELLED TO PAY OFF
WESTMORELAND BALANCE IN FULL. . THAT WAS
OVER 3 YEARS BEFORE MRS. MUSE DIED ON AUGU
ST 12, 1983 . SOVRAN BANK NA BY DONALD E KOO
NCE QUALIFIED AS EXCETOR ON AUGUST , 1983.
SOVRAN BANK NA BY KOONCE ILLEGALLY SOLD MR.
HOLDING, S HOME AND 45 ACRES IN WESTMORELAND
COUNTY ON JUNE 11, 1986 WITHOUT NOTICE OR
DEMAND FOR PAYMENT AND KNOWING THE DEED OF
TRUST HAD BEEN PAID IN FULL ON JULY 2, 1980.
MR. HOLDING BROUGHT THIS SUIT FOR DAMAGES TO
COMPENSATE HIM FOR THE DAMAGES AND IREPARABLE
INJURIES INFLICTED BY THE RESPONDANTS WHO H
AVE NO REMORSE FOR THEIR BRAZEN ACTS . ALL
OTHER RESPONDANTS PARTICIPATED IN THE ACTS.
JUDGE FOSTER RUBBER STAMPED AN ORDER SUBMI
TTED BY COUNSEL FOR RESPONDANTS DISMISSED
THE PETITIONERS ACTION FOR DAMAGES WHICH VIO
LATED THE DUE PROCESS CONSTIUTIONAL RIGHTS
GUARANTEED BY THE U.S. CONSTITUTION , 14th
5th, 7th, 6th AMENDMENTS THERETO . PETITIONE
R APPEALED , VA S.C. DISMISSED, REHARING DENI

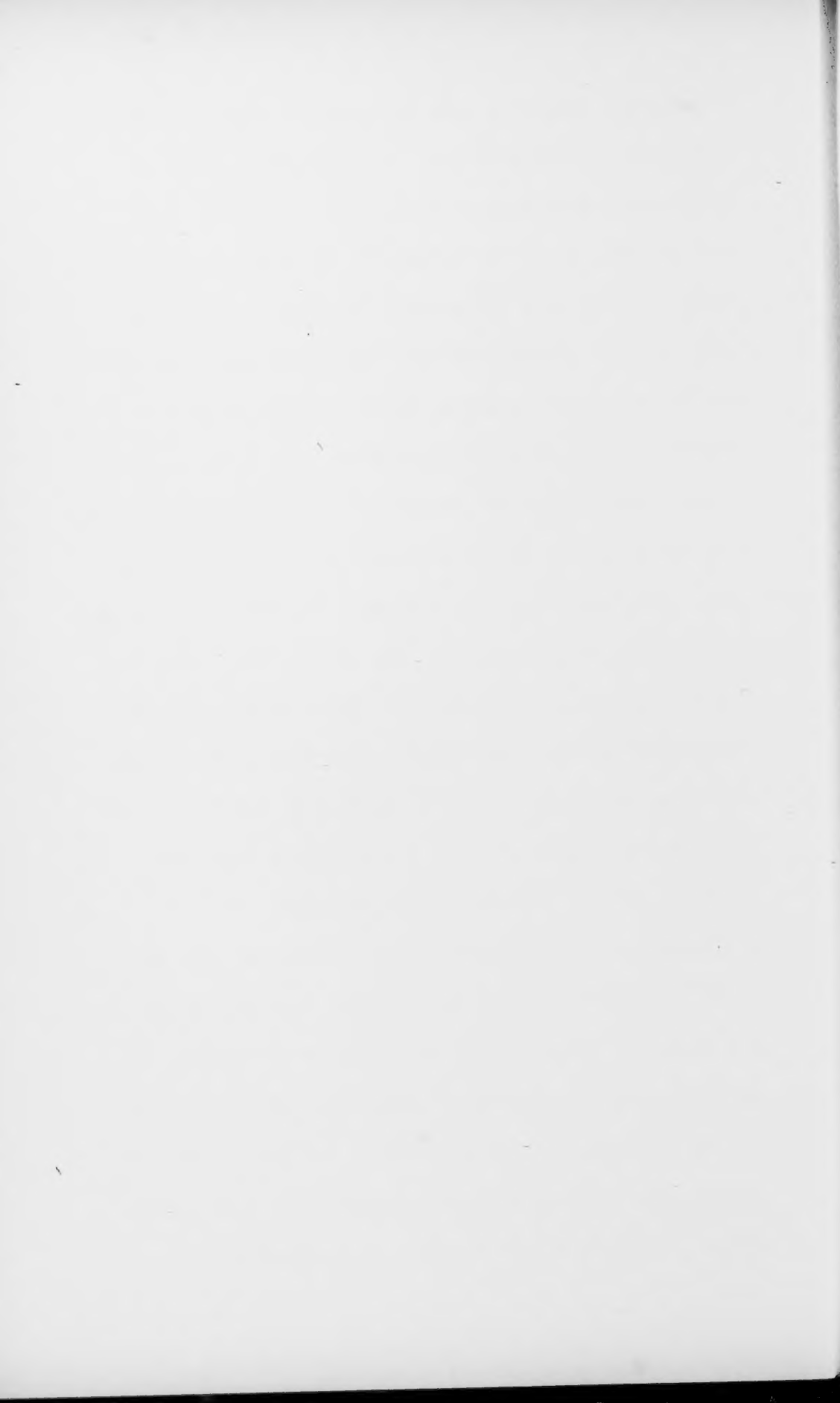


REASONS FOR GRANTING THE PETITION
THE PETITIONERS PROPERTY HAS BEEN STOLEN
AND ILLEGALLY SOLD. THE PETITIONER,S CON
STITUTIONAL RIGHTS OF DUE PROCESS , RIGHT
OF TRIAL , RIGHT OF JURY HAVE BEEN VIDLATED
THUS VIOLATING THE DUE PROCESS OF THE U.S
CONSTITUTION , 14th AMENDMENT , 5th AMENDMEN
T, 6th AMENDMENT , 7th AMENDMENT. THE PETITI
ONER HAS BEEN DAMAGED GREATLY , BEEN INFLECT
ED WITH PERMANENT IRREPARABLE INJURIES,AND
CAUSED THE PETITIONER TO HAVE HEART ATTACKS
CULUMINATING INTO 2 SEPARATE OPEN HEART BY
PASS SURGERIES86 RENDERING HIM TOTALY DISABL
E. TO ALSO ATTAIN THE ENDS OF JUSTICE.TRUTH
AND JUSTICE ARE ESSENTIAL AND REQUIRE OF CIV
ILIZATION WITHOUT IT WE DESTROY OURSELVES .

ARGUMENTS AND CONCLUSIONS

SOVRAN BANK NA, CCOLEMAN MCGEHEE, DONALD E.
KOONCE, MCGUIRE WOOD BATTLE, THOMAS S WORD,
JR., , SCOTTS-CAIRNS,BROWDER RUSSELL MORRIS
BUTCHER, JOHN R. BROWDER, PAUL G. SAUNDERS,
II , the Respondants BY SELLING MR. HOLDING
HOUSE AND 45 ACRES IN WESTMORELAND COUNTY
DELIBERATELY WRONGED HIM CAUSING SIGNIFICAN

TLY GREAT DAMAGES AND PERMANENT IRREPARABLE INJURIES, HEART ATTACKS CULMINATING INTO 2 SEPARATE OPEN HEART SURGERIES IN 1986 RENDERING MR. HOLDING COMPLETELY PERMANENTLY DISABABLE . THEY HAD AN UTTER DISREGARD FOR THE LAW, LEGAL RIGHTS OF MR. HOLDING AND HIS PROPERTY, OUTRIGHT BRAZEN WITH STEALING HIS PROPERTY AND SELLING IT KNOWING THE DEED OF TRUST HAD BEEN PAID ON FEBRUARY 2, 1980 AS EVIDENCED BY A CHECK MADE PAYABLE TO LILLIAN J. MUSE , TRUSTEE AND 100 % OWNER OF MUTUAL FINANCE CORP WITH NOTATIONS ON THE CHECK FOR WESTMORELAND MORTGAGE BALANCE IN FULL CHECK FOR \$26,520.00 EXHIBIT I. MRS. MUSE ACTS WERE LEGAL AND BINDING ON JULY 2, 1980 WHEN SHE ACCEPTED MR. HOLDING, S CHECK ACTING AS TRUSTEE FOR FULL PAYMENT OF THE OUTSTANDING BALANCE ON THE WESTMORELAND MORTGAGE DEED OF TRUST AND RECORDED ON THE BOOKS OF MUTUAL FINANCE CORP AS PAID IN FULL . THE RESPONDANTS TAKING OF MR. HOLDING, S PROPERTY AND SELLING IT VIOLATED HIS CONSTITUTIONAL RIGHTS OF DUE PROCESS UNDER THE CONSTITUTION OF THE U.S. 14th AMENDMENT, DUE PROCESS UNDER 5th AMENDMENT.



JUDGE FOSTER OF THE CIRCUIT COURT OF WEST
MORELAND COUNTY VIOLATED THE CONSTITUTIONAL
RIGHTS OF MR. HOLDING BY SIGNING AN ORDER
DISMISSING THE PETITIONER, S MOTION FOR DA
MAGES WITHOUT A TRIAL. THE JUDGE VIOLATED
THE DUE PROCESS OF THE 14th AMENDMENT TO THE
U.S. CONSTITUTION, DUE PROCESS OF THE 5th AM
ENDMENT, TRIAL BY JURY AND OBTAINING WITNES
SES 6th AMENDMENT, AMOUNT OVER \$ 20,00 UNTIL
LED TO TRIAL BY JURY THE 7th AMENDMENT. MR.
HOLDING WAS DENIED A TRIAL , DENIED TRIAL BY
JURY AND OBTAINING WITNESSES IN HIS BEHALF,
DUE PROCESS OF THE U.S. CONSTITUTION THUS
JUDGE FOSTER, S DECISION MUST BE SET ASIDE
WITH A NEW TRIAL AND JUDGMENT FOR THE PETITIONER.

IN CONCLUSION MR. HOLDING, S PROPERTY WAS TAK
ING ILLEGALLY AND SOLD ILLEGALLY BY THE RES
PONDANTS KNOWING THE DEED OF TRUST HAD BEEN
PAID IN FULL ON JULY 2, 1980 AND WITHOUT NOT
TICE CAUSING UNTOLD DAMAGES AND IRREPARABLE
PERMANENT INJURIES CAUSING HIM TO HAVE HEART A
TTACKS IN 1986 CULMINATING INTO 2 OPEN HEART
BYPASS SURGERIES RENDERING HIM TOTALLY DISABLE.



AND LOSS OF HIS HOME WITH 45 ACRES IN WESTMO
RELAND COUNTY .

WHEREFORE , YOUR PETITIONER ASK THIS HONORABLE
BODY OF JUSTICES TO GRANT THE PETITION , REV
ERSE THE LOWER COURT DECISION AND HOLD FOR
THE PETITIONER, S MOTION FOR DAMAGES AGAINST
THE RESPONDANTS.

RESPECTFULLY SUBMITTED,
Clarence H. Holding
CLARENCE H. HOLDING

COUNSEL FOR THE PETITIONER .

CERTIFICATE

I CERTIFY I SENT POSTAGE PAID 3 COPIES OF
THE PETITION FOR WRIT OF CERTIORARI AND
MOTION FOR DAMAGES TO COUNSEL FOR THE RES
PONDANTS, MARY M.H. PRIDDY , ONE JAMES
CENTER, 901 E. CARY ST. , RICHMOND , VA.

23219. ON JUNE 3, 1987 .

Clarence H. Holding
CLARENCE H. HOLDING

COUNSEL FOR PETITIONER.

JUL 22 1980
 66-437
 531
 PAY TO THE ORDER OF
 Mrs. Lillian C. Mice
 \$26,520.00
 Twenty six thousand five hundred and no/100 DOLLARS
 First-Citizens. The Can Do Bank
 First Citizens Bank & Trust Company
 Smithfield, N. C. 27577
 Next mortgage
 FOR balance paid in full
 1:0531043771: 3366A90728
 712652000052000

E1



V I R G I N I A

?

CIRCUIT COURT OF WESTMORELAND COUNTY

CLARENCE H. HOLDING , PLAINTIFF,

V. LAW NO 751

SOVRAN BANK NA ,ET AL . , DEFENDANTS.

ORDER

THIS DAY CAME DEFENDANTS, SOVRANK NA. ETAL
BY COUNSEL, FILED A DEMURRER , PLEA OF RES
JUDICATA, MOTION FOR SUMMARY JUDGMENT TO TH
E MOTION FOR DAMAGES FILED BY PLAINTIFF, CLA
RENCE H. HOLDING. UPON CONSIDERATION OF MOT
ION FOR DAMAGES , DEMURRER, PLEA OF RES JUDI
TA AND MOTION FOR SUMMARY JUDGMENT , THE CO
URT IS OF OPINION THE MOTION FOR DAMAGES BE
DISMISSED FOR REASONS STATED IN PLEADINGS.
IT IS , THEREFORE , ADJUDGED AND ORDERED MOT
ION FOR DAMAGES OF PLAINTIFF, BE DENIED AND
DISMISSED, PLAINTIFF,S EXCEPTIONS ARE NOTED.

ENTER: 9/3/86 DIXON L. FOSTER, J.



V I R G I N I A

IN THE CIRCUIT COURT OF WESTMORELAND CTY

CLARENCE H. HOLDING , PLAINTIFF

V. LAW NO 751

SOVRAN BANK NA ET ALS , DEFENDANTS

OBJECTIONS TO ANSWERS ON MOTION FOR
DAMAGES MOTION FOR JUDGMENT

COMES NOW YOUR PLAINTIFF , CLARENCE H. HOLDIN
G BY COUNSEL AND STATES FORTH HIS OBJECTIONS
TO ANSWERS OFD DEFENDANTS ON GROUNDS NO ANSW
ERS WERE GIVEN NOR ADMITTING OR DENYING WITH
REASONS THE ORIGINAL MOTION FOR DAMAGES. THE
PLEADINGS OF THE DEFENDANTS ARE FALSE , ERRON
EOUS INCOMPLETE . THE PLAINTIFF THEREFORE ASK
FOR JUDGMENT FOR DAMAGES FOR THE AMOUNT OF
THE ORIGINAL MOTION FOR DAMAGES.

RESPECTFULLY SUBMITTED,

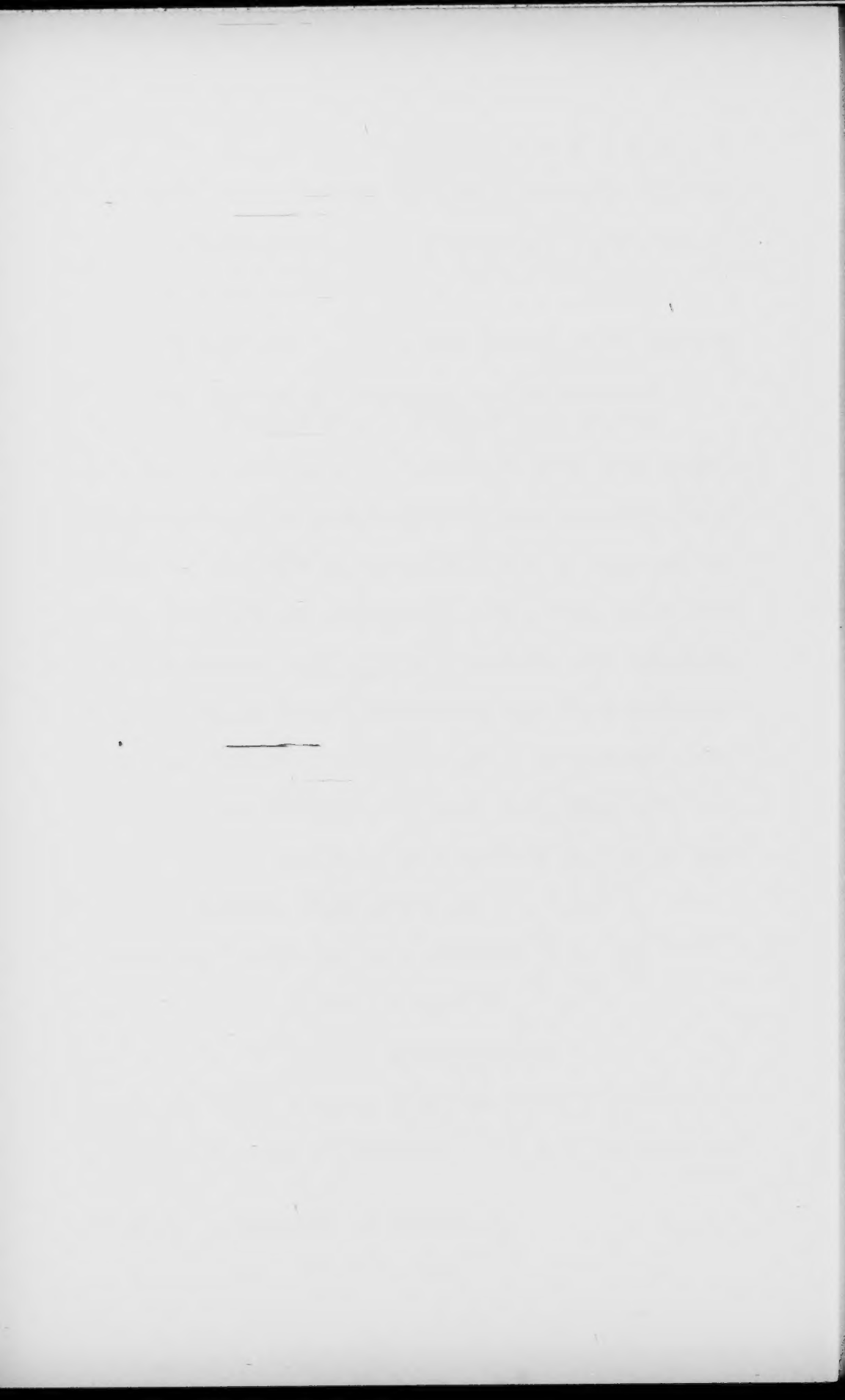
CLARENCE H. HOLDING, COUNSEL

FOR PLAINTIFF.

CERTIFICATE

I CERTIFY I SENT POSTAGE PAID A COPY OF ABOVE
TO COUNSEL FOR THE DEFENDANTS MARY PRIDDY9/24
1986

CLARENCE H. HOLDING , COUNSEL



V I R G I N I A

IN CIRCUIT COURT OF WESTMORELAND COUNTY

CLARENCE H. HOLDING, PLANTIFF,

V. LAW NO 751

SOVRAN BANK NA ET ALS, DEFENDANTS.

MOTION TO SET ASIDE AND STRIKE
ORDER

NOW COMES YOUR PLANTIFF, CLARENCE H. HOLDING
BY COUNSEL AND ASK THIS COURT TO SET ASIDE
AND STRIKE THE ORDER DATED SEPTEMBER 3, 1986
ON GROUNDS IT IS FALSE AND ERRONEOUS AND LET
IT BE DONE IMMEDIATELY .

RESPECTFULLY SUBMITTED

CLARENCE H. HOLDING

COUNSEL FOR THE P PLANTIFF.

CERTIFICATE

I CERTIFY I SENT A COPY OF MOTION TO COUNSEL
OF DEFENDANTS ON 9/24/1986.

CLARENCE H. HOLDING, COUNSEL

EL

V I R G I N I A

IN THE CIRCUIT COURT OF WESTMORELAND

CLARENCE H. HOLDING, PLANTIFF,

V

LAW NO. 751

SOVRAN BANK NA ET ALS DEFENDANTS

NOTICE OF APPEAL

COMES NOW YOUR PLANTIFF , CLARENCE H. HOLDING
BY COUNSEL AND DOTH FIRMLY GIVE NOTICE OF APP
EAL FROM ORDER OF JUDGE DIXON L. FOSTER DATED
SEPTEMBER 3, 1986. A STATEMENT WILL FOLLOW.

I HEREBY REQUEST THE CLERK FORWARD THE RECORDS
TO THE SUPREME COURT OF VIRGINIA .

CLARENCE H. HOLDING

COUNSEL FOR PLANTIFF

CERTIFICATE-

I CERTIFY A COPY WAS SENT POSTAGE PAID TO COU
NSEL FOR DEFENDANTS, MARY PRIDY ON 9/24, 86.

CLARENCE H. HOLDING ,

COUNSEL FOR PLANTIFF .



V I R G I N I A

IN THE SUPREME COURT HELD ON TUESDAY FEB
RUARY 3rd 1987 in Richmond

CLARENCE H. HOLDING APPELLANT,

V RECORD NO. 861131 CIRCUIT CT751

SOVRAN BANK , NA, ET AL APPELLEES .

FROM THE CIRCUIT COURT OF WESTMORELAND CTY.

ON DECEMBER 1 , 1986 CAME APPELLANT , IN PRO
PER PERSON AND FILLED A PETITION FOR APPEAL
IN ABOVE STYLED CASE. THEREUPON CAME APPELL
EES, BY COUNSEL , AND FILED A MOTION TO DIS
MISS THE PETITION FOR APPEAL AND A BRIEF IN
OPPOSITION .

ON CONSIDERATION WHEREOF , MOTION TO DISMISS
IS GRANTED AND PETITION IS REFUSED .

JUSTICE STEPHENSON DID NOT PARTICIPATE IN THE
CONSIDERATION OF THHIS CASE .

A COPY, TESTE:

DAVID B. BEACH, CLK

BY P. A. BE. DEP CLK



V I R G I N I A

IN THE SUPREME COURT , RICHMOND ON FRIDAY 6th
MARCH, 1987.

CLARENCE H. HOLDING APPELLANT,

V. RECORD 861131 CIR CT 751

SOVRAN BANK NA , ET AL APPELLEES.

UPON PETITION FOR REHEARING

ON CONSIDERATION OF PETITION OF APPELLANT TO
SET ASIDE THE JUDGMENT RENDERED HEREIN ON 3rd
FEBRUARY, 1987 AND GRANT A REHEARING , THE PR
AYER IS DENIED .

CHIEF JUSTICE CARRICO AND JUSTICE STEPHENSON
TOOK NO PART IN THE CONSIDERATION OR DECISION
OF THIS CASE .

A COPY, TESTE: :

DAVID B BEACH , CLERK



V I R G I N I A

IN THE SUPREME COURT

CLARENCE H. HOLDING

APPELLANT,

V.

SOVRAN BANK NA ET ALS

DEFENDANTS.

NOTICE OF APPEAL

COMES NOW YOUR APPELLANT , CLARENCE H. HOLDING BY COUNSEL GIVES NOTICE OF APPEAL TO THE SUPREME COURT OF UNITED STATES OF AMERICA. I HEREBY REQUEST THE CLERK TO FORWARD THE RECORD TO WASHINGTON , D.C. SUPREME COURT OF THE UNITED STATES .

RESPECTFULLY SUBMITTED

CLARENCE H. HOLDING

CERTIFICATE

I CERTIFY I SENT A COPY OF APPEAL POSTAGE PAID TO COUNSEL FOR DEFENDANTS MARY M H PRIDDY ON 3/13/87.

CLARENCE H. HOLDING

COUNSEL FOR APPELLANT